

COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
TIDEWATER REGIONAL OFFICE

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Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director

Craig J. Nicol
Regional Director

**STATE AIR POLLUTION CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
HAMPTON ROADS SANITATION DISTRICT
FOR
Hampton Roads Sanitation District's
Army Base Wastewater Treatment Plant Facility
Air Registration No. 60349**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and Hampton Roads Sanitation District, regarding its Army Base Wastewater Treatment Plant facility, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law, and the applicable State Operating Permit and Title V Federal Operating Permit and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Army Base WWTP" means the HRSD Army Base waste water treatment plant and SSI located at 401 Lagoon Road in Norfolk, Virginia.
2. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1301.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
5. "HCL" means hydrogen chloride.

6. "HRSD" means Hampton Roads Sanitation District, an authority created pursuant to the Virginia Water and Waste Authorities Act, Va. Code § 15.2-5100 *et seq.* HRSD is a "person" within the meaning of Va. Code § 10.1-1300.
7. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
8. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the Virginia Air Pollution Control Law.
9. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
10. "SSI" means sewage sludge incinerator.
11. "TRO" means the Tidewater Regional Office of DEQ, located in Virginia Beach, Virginia.
12. "TV Permit" means the Title V permit to treat sewage and wastewater and incinerate sludge in a SSI, which was issued (renewed) under the Virginia Air Pollution Control Law and the Regulations to HRSD for its Army Base facility on December 16, 2015, amended on June 10, 2016, and expires on December 15, 2020.
13. "Va. Code" means the Code of Virginia (1950), as amended.
14. "VAC" means the Virginia Administrative Code.
15. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.

SECTION C: Findings of Fact and Conclusions of Law

1. HRSD owns and operates the Army Base WWTP facility located in Norfolk, Virginia. The Army Base WWTP is the subject of the TV Permit, which authorizes HRSD to treat sewage and wastewater and incinerate sludge in a SSI.
2. On January 6, 2020, DEQ received a report for the stack test conducted on November 7, 2019 at the Army Base WWTP for the SSI Unit I-2.
3. Based on the January 6, 2020 stack test report, Department staff observed that the November 7, 2019 stack test results were 1.5 parts per million by dry volume measured at 7% oxygen for HCL emissions.
4. Condition III.A.2 of the TV Permit limits HCL emissions to 1.2 parts per million by dry volume measured at 7% oxygen.

5. 9 VAC 5-170-160(A) provides that the Board may impose conditions upon permits and other approvals which may be necessary to carry out the policy of the Virginia Air Pollution Control Law, and which are consistent with the regulations of the board.
6. Va. Code § 10.1-1322(A) provides that permits may be issued, amended, revoked, or terminated and reissued by the Department and may be enforced under the provisions of this chapter in the same manner as regulations and orders.
7. On January 27, 2020, based on the report submitted to DEQ for the SSI Unit I-2 stack test conducted on November 7, 2019, the Department issued to HRSD for the Army Base WWTP NOV No. ATRO001408 for the violations described in paragraphs C(2) through C(4), above.
8. Based on the results listed in the January 6, 2020 stack test report that HRSD submitted to DEQ for the Army Base WWTP for the SSI Unit I-2 stack test conducted on November 7, 2019, the Board concludes that HRSD has violated Condition III.A.2 of the TV Permit, as described in paragraphs C(2) through C(6), above.
9. On May 14, 2020, DEQ received a report for the stack test (retest) conducted on April 22, 2020 at Army Base WWTP for the SSI Unit I-2. Based on the May 14, 2020 stack test report, Department staff observed that the April 22, 2020 stack test (retest) results were 0.98 parts per million by dry volume measured at 7% oxygen.
10. HRSD has submitted documentation of the May 14, 2020 stack test report of the Army Base WWTP April 22, 2020 retest of SSI Unit I-2 that verifies the Army Base WWTP stack test violation described in paragraphs C(2) and C(6), above, has been corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders HRSD, and HRSD agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$11,865 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

HRSD shall include its Federal Employer Identification Number (FEIN) 10-546001749-001 with the civil charge payment and shall indicate that the payment is being made in accordance

with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, HRSD shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of HRSD for good cause shown by HRSD, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in the HRSD Army Base NOV No. ATRO001408 dated January 27, 2020. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, HRSD admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. HRSD consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. HRSD declares it has received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by HRSD to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. HRSD shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. HRSD shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on

its part. HRSD shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and HRSD. Nevertheless, HRSD agrees to be bound by any compliance date, which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after HRSD has completed all of the requirements of the Order;
 - b. HRSD petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to HRSD.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve HRSD from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by HRSD and approved by the Department pursuant to this Order are incorporated into this Order.

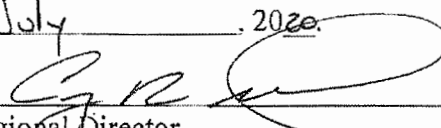
Any non-compliance with such approved documents shall be considered a violation of this Order.

13. The undersigned representative of HRSD certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind HRSD to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of HRSD.

14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, HRSD voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 1st day of July, 2020.


Regional Director
Department of Environmental Quality

Hampton Roads Sanitation District voluntarily agrees to the issuance of this Order.

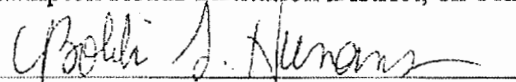
Date: 6/29/2020 By: MMB, General Manager
(Person) (Title)
Hampton Roads Sanitation District

Commonwealth of Virginia
City/County of Virginia Beach

The foregoing document was signed and acknowledged before me this 29 day of

June, 2020, by Edward G. Henifin who is

General Manager of Hampton Roads Sanitation District, on behalf of the
public service authority.


Notary Public

7684327

Registration No.

My commission expires: 11/30/2020

Notary seal:



BOBBI SUZANNE HERMANS
NOTARY PUBLIC - Reg. #7684327
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES NOVEMBER 30, 2020

APPENDIX A
SCHEDULE OF COMPLIANCE

HRSD shall:

1. By August 1, 2020, provide an approvable corrective action plan for system improvements to eliminate violations of Permit limits for HCL.
2. Beginning October 1, 2020, submit quarterly progress reports to DEQ by the 10th of the month respectively. The quarterly progress reports shall include the status of any upgrades or modifications to the system or that affect the system for compliance with the Permit limits for HCL. Once two consecutive TV Permit compliant emissions limits test for HCL are completed but no earlier than October 1, 2022, the HCL progress reports shall be submitted on a calendar annual basis by the 10th of January following the calendar year.
3. By August 1, 2024, achieve compliance with the HCL TV Permit emission limit.
4. Unless otherwise specified in this Order, HRSD shall submit all requirements of Appendix A of this Order to:

Regional Director
VA DEQ – Tidewater Regional Office
5636 Southern Boulevard
Virginia Beach, Virginia 23455